

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ABEL BRAVO on behalf of himself, FLSA  
Collective Plaintiffs, and the Class,

Plaintiff,

v.

ESTABLISHED BURGER ONE LLC *et al.*,

Defendants.

12 Civ.9044 (DLC) (JCF)

JOSE MARTINEZ, SERGIO CERQUEDA,  
and ENRIQUE ALLENDE, on behalf of  
themselves, FLSA Collective Plaintiffs, and  
the Class,

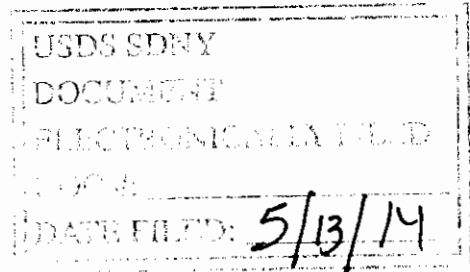
Plaintiffs,

v.

ESTABLISHED BURGER ONE LLC *et al.*,

Defendants.

13 Civ. 7532 (DLC) (JCF)



**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY  
APPROVAL OF CLASS SETTLEMENT, PROVISIONAL CERTIFICATION OF THE  
SETTLEMENT CLASS, APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS  
COUNSEL, AND APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF  
SETTLEMENT**

The above-captioned matters came before the Court on Plaintiffs' Motion for Preliminary Approval of Class Settlement, Provisional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of Plaintiffs' Proposed Notice of Settlement ("Motion for Preliminary Approval"). Defendants agreed, for settlement purposes only, not to oppose the motion.

1. Based upon the Court's review of Plaintiffs' Memorandum of Law in Support of their Motion for Preliminary Approval, the Declaration of C.K. Lee, Esq. ("Lee Decl."), and all other papers submitted in connection with Plaintiffs' Motion for Preliminary Approval, the Court grants preliminary approval of the settlement memorialized in the Settlement Agreement and

Release (“Settlement Agreement”) between Plaintiffs Abel Bravo, Jose Martinez, Enrique Allende, and Sergio Cerqueda (collectively “Plaintiffs”) and Defendants Established Burger One LLC, Established Burger Two LLC, Established Burger Three LLC, Established Burger Four LLC, Established Burger Five LLC, (the “Established Burger Defendants”), and Good Burger Inc., 636 Lexington Avenue Restaurant Corp., 43rd Street Rest. LLC, Union Square Burger Corp., Pearl Maiden Burger Inc., 45th Street Burger Corp., Nikolaos Pashalis, and Tom Gialamboukis (the “Good Burger Defendants”) (collectively the “Defendants”) attached to the Lee Declaration as Exhibit A, and “so orders” all of its terms.

2. The Court concludes that the proposed Settlement Agreement is within the range of possible settlement approval, such that notice to the Class is appropriate.

3. The Court finds that the Settlement Agreement is the result of extensive, arms’ length negotiations by counsel well-versed in the prosecution of wage and hour class and collective actions. The assistance of an experienced employment mediator reinforces that the Settlement Agreement is non-collusive.

4. For settlement purposes only, the Court provisionally certifies the following class under Fed. R. Civ. P. 23(e) (“Settlement Class”):

All individuals in the Kitchen Manager, Delivery Worker, Cashier, Counterperson, Grill Worker, Line Cook, Promotional Worker, and Porter job classifications who worked for Defendants between December 12, 2006 and April 30, 2014.

5. For settlement purposes only, Plaintiffs meet all of the requirements for class certification under Federal Rule of Civil Procedure 23(a) and (b)(3).

6. For settlement purposes only, the Court appoints Lee Litigation Group PLLC as Class Counsel pursuant to Federal Rule of Civil Procedure 23(g).

7. The Court approves CPT Group as administrator of the settlement.

8. The Court approves the proposed Notice of Proposed Class Action Settlement (the "Notice"), which is attached as Exhibit A to the Settlement Agreement, and directs its distribution to the Class.

9. Within 30 days following the date of this Order, Defendants will provide the Claims Administrator with a list, in electronic form, of the (1) names, (2) last known addresses, (3) social security numbers, (4) position held by each Class Member, and (5) for those Class Members who held delivery positions, the start and end dates of their employment as a delivery person.

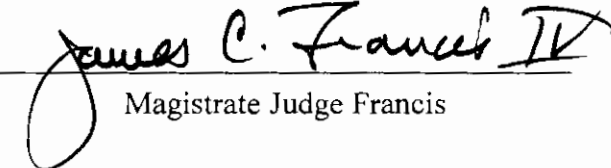
10. Within 45 days of the date of this Order, the Claims Administrator shall mail, via First Class United States mail, postage prepaid, the Notice in the form appended to the Settlement Agreement as Exhibit A to all Class Members.

11. Rule 23 Class Members will have 45 days from the date the Notice is mailed to opt out of the settlement or object to it.

12. Plaintiffs will file a Motion for Final Approval of Settlement no later than 14 days before the fairness hearing.

13. The Court will hold a final fairness hearing on August 22, 2014 at 9<sup>30</sup> a.m./~~p.m.~~ at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, Courtroom 18-D.

It is so ORDERED this 12<sup>th</sup> day of May, 2014.

  
Magistrate Judge Francis